

The Honorable James L. Robart

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,
Plaintiff

NO. CR22-127JLR

PROTECTIVE ORDER

v.

JOHN MICHAEL SHERWOOD, and
ERIKA A. BOCELLE,
Defendants.

This matter, having come to the Court's attention on the parties' joint motion for entry of a discovery protective order, and the Court, having considered the motion, and being fully advised in this matter, hereby enters the following PROTECTIVE ORDER:

1. Protected Material. For purposes of this Order, "Protected Materials" shall include (1) Grand Jury testimony; (2) financial information (including bank records), subscriber information (including phone and utility subscriber information for third parties) and other personal identifying information ("PII") obtained during the investigation, either via Grand Jury subpoena and/or during the execution of search warrants; (2) other personal information about defendants and third parties, including but not limited to photographs (including sexually suggestive photographs, photographs of

1 family members, defendants and/or witnesses) and other sensitive information obtained
2 from the search of social media, cellular telephones and other digital devices seized
3 during the investigation (collectively, the “Protected Material”). All Grand Jury
4 transcripts, cellular telephone downloads, bank and other financial records, and
5 summaries of financial records provided during discovery will be considered Protected
6 Material without further designation by the Government.

7 2. Other information believed by the Government to be Protected Material
8 will be so designated by the Government. Said material may include, but is not limited
9 to, criminal history reports for defendants and/or prospective government witnesses and
10 related Giglio impeachment materials.

11 3. Production of Protected Material to the Defense. The United States will
12 make available copies of the Protected Materials, including those filed under seal, to
13 defense counsel to comply with the government’s discovery obligations. Possession of
14 copies of the Protected Materials is limited to the attorneys of record, and investigators,
15 paralegals, law clerks, experts and assistants for the attorneys of record (hereinafter
16 collectively referred to as “members of the defense teams”). Further, the attorneys of
17 record are required, prior to disseminating any copies of the Protected or Sensitive
18 Materials to members of the defense teams, to provide a copy of this Protective Order to
19 members of the defense teams, and obtain written consent by members of the defense
20 teams of their acknowledgment to be bound by the terms and conditions of this Protective
21 Order. The written consent need not be disclosed or produced to the United States unless
22 requested by the Assistant United States Attorney and ordered by the Court.

23 4. Review of Protected Material by Defendants. The attorneys of record and
24 members of each Defendant’s defense team may share and review the Protected Material
25 with their respective Defendant. Defendants who are residing at the Federal Detention
26 Center (FDC) will be permitted to review the Protected Material, consistent with the
27 regulations established by the BOP, with or without their respective counsel in a
controlled environment at the Federal Detention Center (FDC), but will be prohibited
from printing out, copying, or disseminating the discovery; *provided, however*, that

1 defendant Sherwood will be allowed to have hard copies of his own bank records at the
2 FDC at his own risk. Defendants who are on pretrial release will be permitted to review
3 the Protected Material at the offices of their counsel, but will be prohibited from printing
4 out, copying, or disseminating the discovery.

5 5. Limits on Dissemination of Protected Materials. The attorneys of record
6 and members of the defense team acknowledge that except as noted above, providing
7 copies of the Protected Material to the Defendants and other persons is prohibited, and
8 agree not to duplicate or provide copies of the Protected Material to the Defendants and
9 other persons. This order does not limit employees of the United States Attorney's
10 Office for the Western District of Washington from disclosing the Protected Material to
11 members of the United States Attorney's Office, federal law enforcement agencies,
12 witnesses and to the Court and defense as necessary to comply with the government's
13 discovery obligations.

14 6. Future Production of Additional Protected Materials. Additional types of
15 discovery items may be deemed by the parties to constitute Protected Material upon
16 agreement, or (if no agreement can be reached) by further order of the Court.

17 7. No Waiver. Nothing in this order should be construed as imposing any
18 substantive discovery obligations on the government that are different from those
19 imposed by case law and Rule 16 of the Federal Rules of Criminal Procedure. The
20 failure to designate any materials as provided in paragraph 2 shall not constitute a waiver
21 of a party's assertion that the materials are covered by this Protective Order.

22 8. Use of Protected Material in Court. Any Protected or Sensitive Material
23 that is filed with the Court in connection with pre-trial motions, trial, or other matter
24 before this Court, shall be filed under seal and shall remain sealed until otherwise ordered
25 by this Court. This does not entitle either party to seal their filings as a matter of course.
26 The parties are required to comply in all respects with the relevant local and federal rules
27 of criminal procedure pertaining to the sealing of court documents.

9. Non-Termination. The provisions of this Order shall not terminate at the
conclusion of this prosecution. Furthermore, at the close of this case, defense counsel

1 shall return the Protected Material, including all copies of the Protected Material, to the
2 office of the United States Attorney, or otherwise certify that the material has been
3 destroyed.

4 10. Violation of Order. Any person who willfully violates this order may be
5 held in contempt of court and may be subject to monetary or other sanctions as deemed
6 appropriate by this Court.

7 11. Modification of Order. Nothing in this Stipulation shall prevent any party
8 from seeking modification of this Protective Order or from objecting to discovery that it
9 believes to be otherwise improper. The parties agree that in the event that compliance
10 with this Order makes it difficult for defense counsel to adhere to their Sixth Amendment
11 obligations, or otherwise imposes an unworkable burden on counsel, defense counsel
12 shall bring any concerns about the terms of the Order to the attention of the government.
13 The parties shall then meet and confer with the intention of finding a mutually acceptable
14 solution. In the event that the parties cannot reach such a solution, defense counsel shall
15 have the right to bring any concerns about the scope or terms of the Order to the attention
16 of the Court by way of a motion.

17 12. No Ruling on Discoverability or Admissibility. This Protective Order does
18 not constitute a ruling on the question of whether any particular material is properly
19 discoverable or admissible and does not constitute any ruling on any potential objection
20 to the discoverability of any material.

21 13. No Ruling on Timing of Production. This Protective Order does not
22 require the Government to provide particular discovery at a time or in a fashion
23 inconsistent with applicable law.

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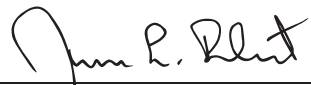
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1 14. Addition of Defendants after Entry of Order. This Protective Order will
2 cover additional Defendants in this case so long as they agree to be bound by the terms of
3 this Protective Order and so indicate that consent by the execution of a supplemental
4 stipulation, which shall be filed as an addendum or supplement to this Protective Order.

5 The Clerk of the Court is directed to provide a filed copy of this Protective
6 Order to all counsel of record.

7 DATED this 27th day of December, 2022.

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11 The Honorable James L. Robart
12 U.S. DISTRICT COURT JUDGE

13 Presented by:

14 s/ Vincent T. Lombardi
15 VINCENT T. LOMBARDI
16 Assistant United States Attorney
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